IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE TWENTY SECOND DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION NO : 24036 of 2004

Between:

M.Narayan Rao S/o.late M.B.Seetha Rama Rao
Flat No.503,Ashoka Ornata Apartmetns, Street No.2
Ashoknagar, Hyderabad 500 020.

..... PETITIONER

AND

1 Andhra Pradesh State Trading Corporation rep by its Managing Director
5-10-174, Fateh Maidan Road, Hyderabad 500 004.
2 Andhra Pradesh State Trading Corporation Inquiry Officer
5-10-174, Fateh Maidan Road, Hyderabad 500 004.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ or order of direction, more particularly one in the nature of Writ of Mandamus, declaring the action of the 1st Respondent in issuing Memo No.HRD/MNR/CGM(Retd)/ACB/DP/2001, dt 24-01-2002 and its consequential proceedings in Memo No.ADMN/ENQ/Govt./2003 dt 22-11-2003 appointing the 2nd Respondent as Enquiry Officer and the further notice issued by the 2nd Respondent Inquiry Officer in proceedings INQ/MNR/CGM/APSWREIS/2004 dt 7-12-2004 as arbitrary, illegal, unjust, contrary to law, without the authority of law, in violation of the principles of natural justice apart from being in violation of fundamental rights guraranteed under Articles 14,16 and 21 of the Constitution of India and issue consequential directions not to take any action on the basis of the same and pass such other order or orders.

Counsel for the Petitioner:MR.L.RAVICHANDER

Counsel for the Respondent : MR.B.D.MAHESWARA REDDY FOR RVAK-1

The Court at the admission stage made the following :

O R D E R:

The petitioner joined in the services of the 1st respondent – Andhra Pradesh State Trading Corporation as an Accounts Officer in the year 1979. He retired from service on superannuation as Chief General Manager on 31-3-1999. According to him, after three years of his retirement from service, the 1st respondent –corporation framed certain charges against him under the APSRTC Conduct, Discipline and Appeal Regulations vide Proceedings in Memo No. HRD/MNR/CGM (Retd) /ACB/DP/2001, dated 24-01-2002, to which, he gave an explanation dated 31-03-2002 stating that he retired from service as early as in the year 1999; the alleged irregularities are pertaining to the year 1996-97 and the charge memo was issued at a belated stage.

The 1st respondent-corporation appointed the 2nd respondent as an Inquiry Officer *vide* proceedings in Memo No.ADMN/ENQ/GOVT./2003 dated 22-11-2003. Thereafter, the 2nd respondent-Inquiry Officer issued a notice to the petitioner on 7-12-2004 i.e. more than a year after he was appointed as an inquiry officer, calling upon his oral/written submissions on the alleged charges framed against him.

The case of the petitioner is that as he retired from service on superannuation on 31-3-1999, the Employee-Employer relationship between him and the 1st respondent-Corporation has been ceased. In view of the said fact, the action of the 1st respondent-corporation in issuing the charge memo dated 24-01-2002, appointing the 2nd respondent as an Inquiry Officer and consequently, issuance of a notice dated 07-12-2004 by the 2nd respondent is illegal and arbitrary. Challenging the action of the 1st respondent-corporation, this writ petition has been filed.

In the counter-affidavit filed by the 1st respondent-corporation represented by its Managing Director, it was stated that there is no statutory provision barring the corporation from issuing charge Memos against its employees, even though they were retired from service. Further, as the alleged irregularities committed by the petitioner were pertaining to the year 1996-1997 i.e. while he was in service, it cannot be said that issuing the charge memo against the petitioner is illegal. Therefore, the petitioner cannot simply get away with the

responsibility for the alleged irregularities merely on the ground that he retired from service on 31-03-1999.

Heard both sides.

The learned counsel for the petitioner contended that the rules do not contemplate the officials to conduct departmental inquiry as against the retired employees. The employee-employer relationship between the petitioner and the 1st respondent-corporation has been ceased after retirement of the petitioner and hence, conducting domestic inquiry against the petitioner by appointing the 2nd respondent as an inquiry officer is not in accordance with the rules, which needs interference of this Court.

The learned standing counsel appearing for the 1st respondent-corporation contended that basing on the irregularities committed by the petitioner, while he was in service, the said action has been initiated against him. Therefore, the retirement of the petitioner from service on superannuation is not a ground to withdraw the charges levelled against him and the inquiry cannot be said to be illegal as there is no statutory provision barring the corporation from issuing the charge memos against its employees, who retired from service on superannuation.

I have perused the material available on record.

The point for consideration in this writ petition is whether the disciplinary proceedings can be initiated against the petitioner after his retirement from service?

On a careful examination of the material available on record, it is not in dispute that the petitioner retired from service on superannuation on 31-03-1999 and since then, the Employer-Employee relationship between the 1st respondent and the petitioner has been ceased. After three years of his retirement from service, it seems, the 1st respondent-corporation issued the charge memo to the petitioner and in turn, appointed the 2nd respondent as an Inquiry Officer. The 1st respondent-corporation in the counter affidavit stated that there is no statutory provision barring the corporation from issuing charge memos against its employees, who retired from service on superannuation. Admittedly, no Rule position is brought to the notice of this court to show that the departmental proceedings can be initiated and proceed further against the employees, who retired from service on superannuation.

It is pertinent to note that if the Rules contemplate for continuation of the departmental enquiry, it would be a different matter. Therefore, in the absence of any specific Rules as contemplated under the law, and inasmuch as there was no employer-employee relationship between the 1st respondent-Corporation and the petitioner, issuing the charge memo dated 24-01-2002 against the petitioner is contrary to law and therefore, it is liable to be set aside.

Accordingly, the writ petition is allowed and the impugned charge memo is set aside. However, this order does not preclude the 1st respondent-corporation in taking appropriate action against the petitioner in accordance with law. No costs.

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22-02-2005.

Mjl/*

To,

1 The Managing Director, Andhra Pradesh State Trading Corporation
5-10-174, Fateh Maidan Road, Hyderabad 500 004.
2 The Inquiry Officer, Andhra Pradesh State Trading Corporation Inquiry

Officer 5-10-174, Fateh Maidan Road, Hyderabad 500 004.

3. 2 CD copies.